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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/974,780	10/09/2001	Max Schaldach	7040-46	6883

21324 7590 02/13/2003

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EXAMINER

BAXTER, JESSICA R

ART UNIT	PAPER NUMBER
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3731

DATE MAILED: 02/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/974,780

Applicant(s)

SCHALDACH ET AL. *On*

Examiner

Jessica R Baxter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 October 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-60 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-60 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4. 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Objections*

1. The claims have been misnumbered. Misnumbered claims 41-59 have been renumbered 42-60.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-60 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,695,516 to Fischell et al.

Regarding claims 1 and 60, Fischell discloses a stent comprising: a tubular body, a peripheral surface of which is formed by a plurality of support portions that extend in a longitudinal direction of the stent, the support portions comprising: a plurality of bar elements; and a plurality of connecting bars that connect the bar elements; wherein the support portions form a plurality of support portion groups with at least a first support portion and a second support portion in adjacent relationship thereto in a peripheral direction of the stent, the bar elements of which extend in a meander configuration in the longitudinal direction of the stent, and wherein a first engagement point of the connecting bars engages the first support portion and a second engagement point of the connecting bars engages the second support portion, such that the first and second engagement points are spaced apart from each other in the longitudinal direction of the stent and the connecting bars are configured and arranged so the spacing in the longitudinal direction between the first and

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second engagement points changes upon expansion of the stent to compensate for a reduction in length of the respective support portions (see attached FIGS 1 and 3).

Regarding claim 2, Fischell discloses that at least the bar elements of a first support portion and of the two second support portions arranged in the peripheral direction of the stent at both sides of the first support portion extend in a meander configuration in the longitudinal direction of the stent and the first engagement points of the connecting bars engage the first support portion and the second engagement points of the connecting bars engage one of the two second support portions, wherein the first and second engagement points are spaced relative to each other in the longitudinal direction of the stent and the connecting bars are configured and arranged so that the spacing in the longitudinal direction of the stent changes between the first and second engagement points changes upon expansion of the stent in the same manner (see attached FIGS. 1 and 3).

Regarding claims 3 and 5, Fischell discloses that at least the first engagement points of the connecting bars are located near a turning point of the bar element to which the connecting point is engaged (see attached FIG. 3).

Regarding claim 4 and 6, Fischell discloses that the second engagement points of the connecting bars are located near a turning point of the bar element to which the connecting point is engaged (see attached FIG. 3).

Regarding claim 7-10, Fischell discloses that the connecting bars are of a *substantially* straight configuration (see attached FIG. 3).

Regarding claims 11-15, Fischell discloses that a connecting line between the first and second engagement points extends substantially in the longitudinal direction of the stent (see attached FIG. 3).

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Regarding claims 16-21, Fischell discloses that at least one support portion is formed by bar elements extending in a meander configuration in the longitudinal direction of the stent, wherein the bar elements comprise two bar element portions that are adjacent in the longitudinal direction of the stent and which extend between a turning point to form the limbs of a V-shape (see attached FIG. 3).

Regarding claims 22-33, Fischell discloses that the bar element portions include an angle of 90 degrees (see FIG. 3).

Regarding claims 34-40, Fischell discloses that the bar elements of the first and second support portions are of substantially the same periodic configuration and a length of the connecting bars is such that the adjacent bar elements in the first condition of the stent are displaced relative to each by up to a quarter period in the longitudinal direction of the stent (see attached FIG. 1).

Regarding claims 41-49, Fischell discloses that the bar elements of the first and second support portions are of substantially the same period configuration and a length of the connecting bars is such that in the second condition of the stent the adjacent bar elements extend substantially in phase with each other with respect to the longitudinal direction of the stent (see attached FIG. 2).

Regarding claims 50-58, Fischell discloses that the bar elements are designed to increase the flexibility of the stent (see Column 3 lines 5-15).

Regarding claim 59, Fischell discloses that at least one support portion formed by a bar element, the direction of curvature of which changes in a central region between a pair of turning points (see attached FIG. 3).

### ***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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The following patents are cited to further show the state of the art with respect to similar stent designs.

U.S. Patent No. 5,755,776 to Al-Saadon	U.S. Patent No. 5,972,018 to Israel et al.
U.S. Patent No. 5,776,161 to Globerman	U.S. Patent No. 5,922,021 to Jang
U.S. Patent No. 5,776,183 to Kanesaka et al.	U.S. Patent No. 6,027,527 to Asano et al.
U.S. Patent No. 5,836,964 to Richter et al.	U.S. Patent No. 6,193,747 to von Oepen
U.S. Patent No. 5,931,867 to Haindl	U.S. Patent No. 6,261,319 to Kveen et al.
U.S. Patent No. 6,352,552 to Levinson et al.	

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessica R Baxter whose telephone number is 703-305-4069. The examiner can normally be reached on M-F 8:30AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Milano can be reached on 703-308-2496. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3590 for regular communications and 703-305-3590 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

Jessica R Baxter  
Examiner  
Art Unit 3731

  
jrb

February 9, 2003

  
**MICHAEL J. MILANO**  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700

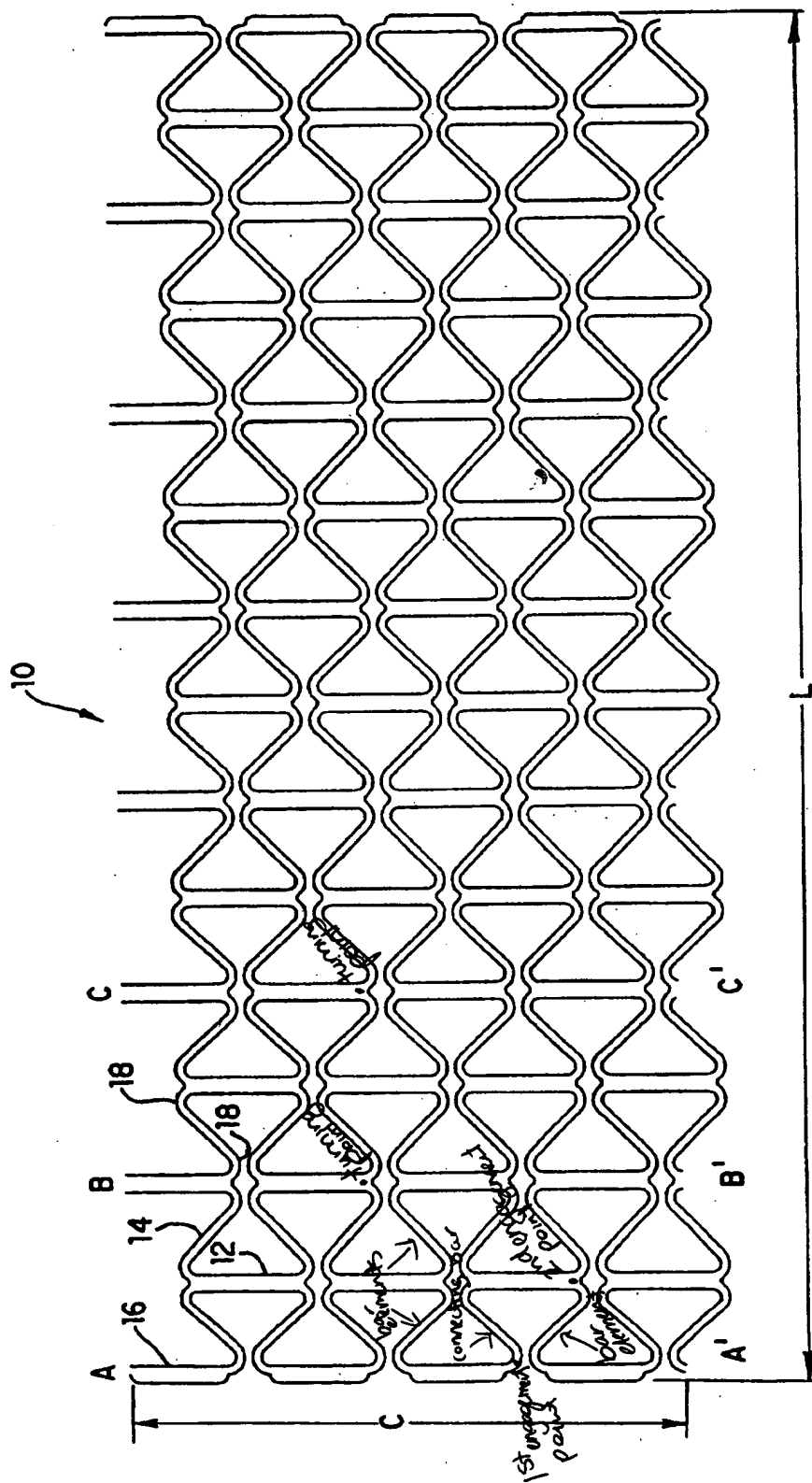


FIG. 1

UNEXPANDED

EXPANDED

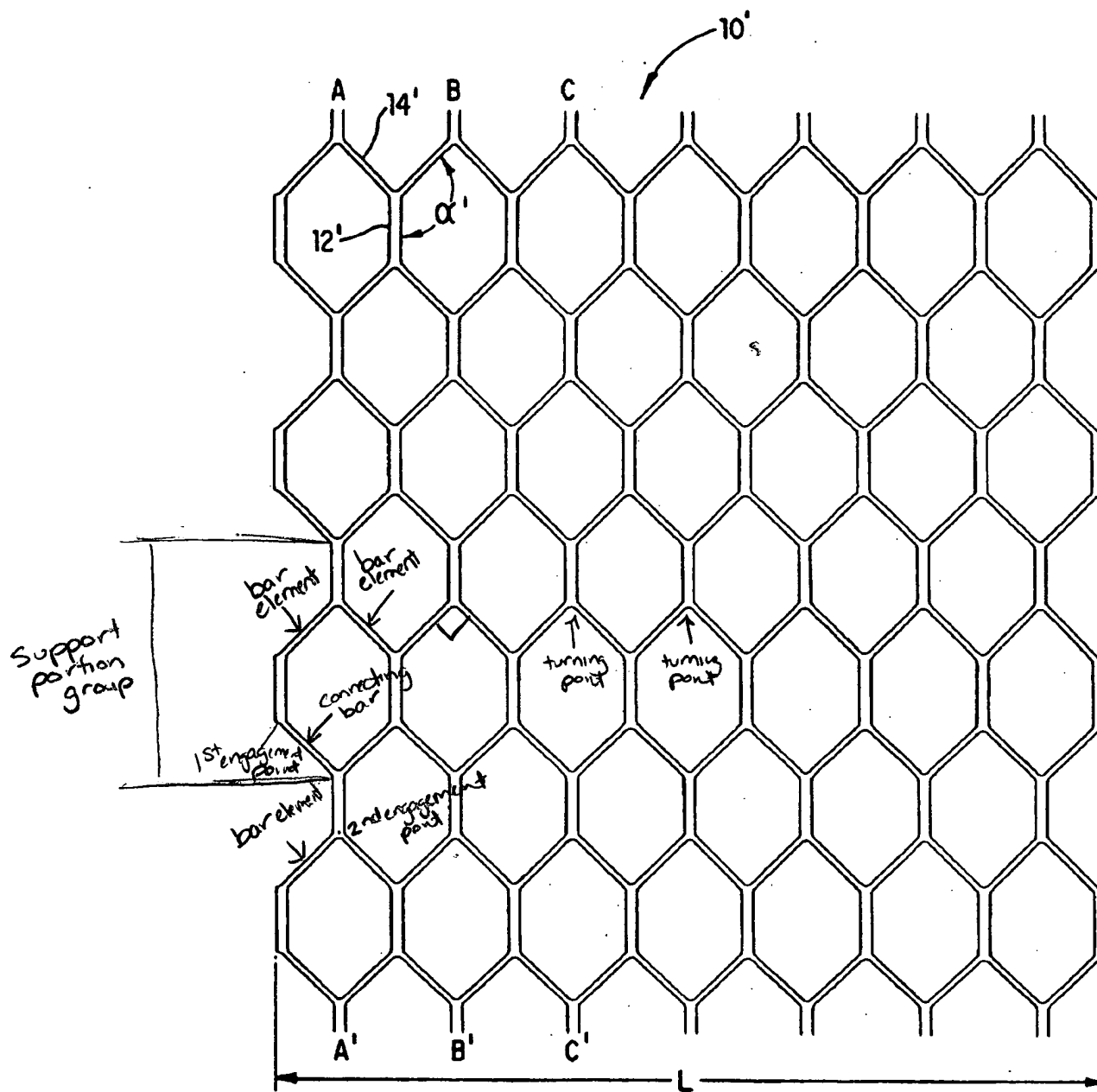


FIG. 3